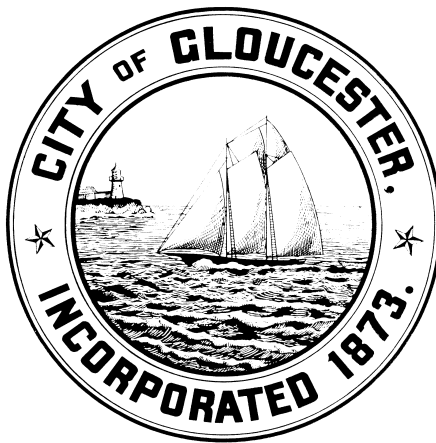


The City of Gloucester Massachusetts

ZONING ORDINANCE



**Issued June 1, 2002
With Amendments to Date Incorporated**

TABLE OF CONTENTS

SECTION I	ADMINISTRATION AND PROCEDURE	Page
1.1	Title	3
1.2	Purpose, Interpretation, Conflict	3
1.3	Administration	3
1.4	Appeals and Special Permits	7
1.5	Amendments to the Zoning Ordinance	13
1.6	Separability	15
1.7	All Other Ordinances Repealed	15
SECTION II	USE REGULATIONS	
2.1	Districts	16
2.2	Use Regulations	18
2.3	Use Regulations Schedule	20
2.4	Non-Conforming Uses, Structures and Lots	34
SECTION III	DIMENSIONAL REGULATIONS	
3.1	Intensity of Use Regulations	37
3.2	Intensity of Use Schedule	38
3.3	Location of Motor Vehicle Services	44
3.4	Pork Chop Shaped Lots	44
3.5	Common Drive	45
SECTION IV	GENERAL REGULATIONS	
4.1	Off-Street Parking	48
4.2	Off-Street Loading	51
4.3	Sign Regulations	53
4.4	Noise, Litter and Smoke Standards	57
4.5	Screening Requirements	57
SECTION V	SPECIAL REGULATIONS	
5.1	Mobile Homes, Trailers and Campers	59
5.2	Earth Removal Regulations	60
5.3	Home Occupations	63
5.4	Dumping and Filling	64
5.5	Lowland Requirements	64
5.6	Housing for Elderly	65
5.7	Major Projects	65
5.8	Freight, Transportation Terminal Facilities	69
5.9	Cluster Development	69
5.10	Watershed Protection Overlay District	75
5.11	Inclusionary Housing Requirements	79
5.12	Business Park District	81
5.13	Personal Wireless Service Facility	82
5.14	Assisted Living Facilities	101
SECTION VI	DEFINITIONS	105
APPENDICES		
A.	Rules of Procedure	114
B.	Interim Ordinances	120
C.	Rezoned Areas	125
D.	Index of Recent Adoptions/Amendments	127

CITY OF GLOUCESTER

In the Year 1969

BE IT ORDAINED by the City Council of the City of Gloucester as follows: An Ordinance ordained September 27, 1950 relative to Zoning, as most recently amended, is hereby further amended by striking out Sections 1-29 thereof and inserting in their places the following Sections.

SECTION I ADMINISTRATION AND PROCEDURE

1.1 TITLE

This Ordinance shall be known as the Zoning Ordinance of the City of Gloucester.

1.2 PURPOSE, INTERPRETATION, CONFLICT

- 1.2.1 This ordinance is for the purpose of promoting the health, safety, convenience, morals and welfare of the inhabitants of Gloucester, and to lessen congestion in the street; conserve health; secure safety from fire, flood, panic, and other dangers; provide adequate light and air; prevent overcrowding of the land; avoid concentration of population; encourage housing for persons of all income levels; facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; encourage the most appropriate use of land through the City, including consideration of the recommendations of the comprehensive plan adopted by the Planning Board and City Council, and the comprehensive plan, if any, of the Regional Planning Agency; and preserve and increase amenities by the promulgation of regulations to fulfill such objectives.
- 1.2.2 In interpreting and applying the provisions of this ordinance, the requirements contained herein are declared to be the minimum requirements for the purpose set forth.
- 1.2.3 Where the application of this Ordinance imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Ordinance shall control.

1.3 ADMINISTRATION

1.3.1 Building Inspector to Enforce Zoning Ordinances

- (a) The Building Inspector shall administer and enforce the provisions of this Ordinance. No permit shall be issued by him for the construction, alteration, enlargement, or for the change of use of any land or premises unless the required submitted plans and specifications and intended use indicate that the building, structure, land or premises will conform in all respects to the provisions of this ordinance, as well as to the applicable building, electrical and plumbing codes, and the regulations of the Board of Health.

- (b) To aid the Building Inspector in his work, it shall be the duty of every police officer to know that all work on buildings on his beat is being done under a proper permit and to notify his superior office for referral to the Building Inspector if it is not being so done.
- (c) If the Building Inspector is requested in writing to enforce this ordinance against any person allegedly in violation of the same and the Building Inspector acts or declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.
- (d) No action, suit, or proceeding to enforce this ordinance against the owners of real property which has been improved and used in accordance with the terms of the original building permit or occupancy permit, issued by a person duly authorized to issue such permits, shall be maintained unless such action, suit, or proceeding is commenced and notice thereof recorded in the Registry of Deeds of Essex County with six (6) years next after the commencement of the alleged violation.

1.3.2 Building and Occupancy Permits Required

- (a) No structure shall be erected, altered, enlarged or moved, and no use of land or a structure shall be begun or changed, until a permit has been issued by the Building Inspector. All applicants for permits shall be in accordance with the provisions of this Ordinance and, unless on written order of the Board of Appeals, no such permit shall be issued for any buildings where instruction, alteration, addition or use thereof would be in violation of any of the provisions of this Ordinance and the State Building Code.
- (b) Applications and forms of permits shall be approved by the Building Inspector.
- (c) Construction or operations under a building or special permit shall conform to any subsequent amendment of this ordinance unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit, and on cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

1.3.3 Procedures to Obtain Permits

- (a) Applicants for building permits on an unsewered lot must first have a septic system design approved by the Board of Health. (Amended 8/29/00)
- (b) Application to build shall be accompanied with a form from the Assessor's Office stating the plan and lot number of land to be built upon as recorded by the Assessors.
- (c) Applications to build shall be accompanied with a copy of a site plan as approved and signed by the City Engineer's Office. Said site plan shall be drawn to scale showing the exact dimensions of the lot to be built upon, all buildings, yards and required off-street parking, off-street loading spaces and screening, existing or proposed.
- (d) All applications for building or occupancy permits shall be accompanied by a fee for the said permit as designated by the fee schedule prepared and amended from time to time by the City Council.

(e) All applications for a permit shall be approved, disapproved or referred to the Board of Appeals by the Building Inspector within twenty days of application.

(f) All applications for special permits shall comply with either the requirements of Section 1.4.1.2 for "SPS" uses, which may be authorized under special permit by the Board of Appeals, or the requirements of Section 1.4.2.2, for "CC or "CCS", City Council procedure for Special Permits so required by this ordinance.

(g) Drainage and Grading Requirements (Adopted 8/29/00) No Building permit for new building construction, including grading for all septic system installations, but excluding additions of 500 square feet or less to existing structures, accessory building of 500 square feet or less, and additions of any size which do not increase the building's footprint size, shall be issued until a drainage/grading plan prepared by a registered professional civil engineer has been submitted to the Director of Public Works as part of the application for said building permit, approved in writing by the Director of Public Works or his/her designees, and the Building Inspector notified. The requirement for said drainage/grading plan may be waived by the Director of Public Works or his/her designee with written notice to the Building Inspector as to why no such plan was required, based upon their professional judgment that no drainage or grading problem exists.

The applicant shall be required to submit the following for pre-construction plan approval:

1. Proposed plot plan showing existing lot with bearings and distances, bench mark location, foundation location including (T.C.) top of concrete elevation and (B.F.) Bottom of footing elevation, and sanitary/septic sewer outlet upgrade.
2. Existing topographical survey on proposed plot plan, including all necessary features; i.e. ledge outcroppings, substantial woodlands and trees, wetlands, and proposed topographical survey showing final grades, driveway grades, street grades, and proposed drainage features including but not limited to infiltration basins, trenches, swales and dry wells.
3. The proposed plan shall include drainage calculations of all impervious areas to assure that drainage structures can handle 25-year storm events as well as meet to the extent possible, the Performance and Design Standards of the Gloucester Subdivision Stormwater Management Regulations. Calculations will be submitted, stamped and signed by a registered professional civil engineer.

Application will be required prior to any structure being attached to the foundation to submit the following:

1. As-built foundation plan stamped and approved by a registered land surveyor or professional registered civil engineer, including top of concrete grade, bottom of footing grade, grade of sanitary/septic sewer outlet, and also including lot line offsets to all property lines to conform to zoning.
2. Final grading including all drainage structures, driveway grades, and edge of street grades conforming to the proposed plan stamped by a registered professional civil engineer responsible for the drainage design.

Lots shall be prepared and graded in such a manner that development of one or more shall not cause detrimental drainage on another. The property shall be graded as to prevent flooding, erosion and low spots that will not drain and create a public nuisance. Where low spots can not be avoided, they shall be drained by drain pipes approved by the Director of Public Works or his/her designees, catch basins or other approved inlet structure, to the nearest street drains or other approved drainage facility. Drainage and groundwater recharge may be attained through site design that incorporates natural drainage patterns and vegetation. To the extent possible, storm water runoff from rooftops, driveways, roadways and other impervious surfaces shall be routed through areas of natural vegetation and/or devices such as infiltration basins, infiltration trenches, grass swales or similar systems.

Drainage and infiltration practices shall be utilized to meet, to the extent possible, the Performance and Design Standards of the Gloucester Subdivision Stormwater Management Regulations. A combination of successive practices may be used to achieve the desired control requirements.

Any and all stormwater systems, excepting those accepted by the City, shall be permanently maintained in full working order by the lot (or lots) owners on which the system is located. Provisions for maintenance shall be described on the grading/drainage plan.

Prior to the issuance of occupancy permits for any building lots requiring an approved grading / drainage plan as described above, the Director of Public Works or his/her designees shall inspect the lot(s) and shall certify to the Building Inspector in writing that said lot(s) comply with the approved plan requirements.

1.3.4 Refusal of Permit

Whenever such application for a permit is refused because of the violation of some provision of the Building Code or of this Ordinance, the reasons for such refusal shall be clearly stated in writing by the Building Inspector.

1.3.5 Violations

The Building Inspector shall institute any appropriate action or proceedings, in the name of the City of Gloucester, necessary to prevent, correct, restrain or abate violations of this Ordinance.

1.3.6 Penalties

Any person, firm or corporation who violates or refuses to comply with any of the provisions of this Ordinance may, upon conviction, be fined not more than one hundred dollars (\$100) for each offense. Each day that such violation continues shall constitute a separate offense.

1.3.7 Records and Reports

The Building Inspector shall maintain a record of all permits issued by him and shall make a yearly report to the City Council and a monthly report to the Board of Assessors.

1.4 APPEALS AND SPECIAL PERMITS

1.4.1 Board of Zoning Appeals

There shall be a Board of Zoning Appeals established in accordance with Chapter 40A of the General Laws and all amendments thereto, which shall consist of five members and two alternate members who shall be appointed by the Chief Executive Officer of the City. Each member and alternate member shall have been a resident of the City of Gloucester for at least three years prior to becoming a member of the Board. Expiration dates of the terms of members and alternate members of the present Board, who shall continue to serve, shall remain unchanged. Members shall be appointed for a term of three (3) years, except that the term of one of the two appointments which will increase the Board from three to five members shall be for a shorter initial term to expire on February 14, 1993. Alternate members shall be appointed for a two (2) year term. Any member or alternate member may be appointed to succeed himself. Any member or alternate member appointed to fill the unexpired term of a member retiring before the expiration of his term shall serve only for the duration of that term.

The Chairman of the Board shall name one of the associate members to act on said Board in place of any member in case of absence, inability to act, or interest on the part of a member thereof, or in the event of a vacancy on said Board, until said vacancy is filled. No member or associate member of the Board of Appeals shall represent before such Board any party of interest in any matter pending before it.

The members of the Board shall annually elect a Chairman from its membership to preside at all meetings. The Board shall appoint a secretary and prescribe rules for the conduct of its affairs. A member of the Board can only be removed for cause by the Chief Executive Officer of the City, and only after written charges have been made and a public hearing has been held. Vacancies shall be filled in the same manner as appointments.

The Board shall keep minutes of its meetings, which shall show the vote of each member upon each question. All minutes of the Board shall be public records.

1.4.1.1 Powers and Duties of the Board of Appeals

(a) The Board of Zoning Appeals shall have all the powers and duties set forth in General Laws, Section 14 of Chapter 40A, as amended. These powers comprise the following:

Appeals: To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative official under the provision of Chapter 40A, General Laws, or by any officer or Board of the City, or by the Regional Planning Agency, or any person, including an officer or Board of the City, aggrieved by any order or decision of the Building Inspector or other administrative official in violation of any provision of Chapter 40A, General Laws, or by this ordinance. To hear and decide appeals from the decision of the Building Inspector, by any person, municipal officer or board, whether or not previously a party to the proceeding that is aggrieved by such decision.

Special Permits: To hear and decide applications for certain Special Permits for exceptions as provided in this Ordinance, subject to any general or specific rules therein contained, and subject to appropriate conditions or safeguards imposed by the Board.

Variances: The Board of Appeals shall hear and decide appeals or petitions for variances from the terms of this ordinance, including variances for use, with respect to particular land or structures. Such variances shall be granted only in cases where the Board of Appeals finds the following:

1. A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to petitioner or appellant.
2. The hardship is owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
3. Desirable relief may be granted:
 - (a) without substantial detriment to the public good (Chapter 40A, Section 10 first paragraph), and
 - (b) without nullifying or substantially derogating from the intent or purpose of this Ordinance (Chapter 40A, Section 10 second paragraph).
 - (c) The Board of Appeals may impose conditions, safeguards and limitations, both of time and of use, including the continued existence of any particular structures, but excluding conditions based upon continued ownership by the applicant or any other owner.
 - (d) Repetitive petitions for exceptions, appeals and petitions for variances, and applications to the Board of Appeals shall be limited as provided in Section 16 of Chapter 40A, General Laws.
 - (e) Variances from the provisions of section 5.13 et seq., of this ordinance (Personal Wireless Services Facilities) shall not be allowed.

1.4.1.2 Board of Appeals Procedure

(a) Within thirty (30) days after an applicant is notified in writing of a refusal to grant a permit by the Building Inspector, or within thirty (30) days after a decision or order is made, any person aggrieved by such an order or decision by the Building Inspector shall file with the City Clerk a notice of appeal, specifying the grounds thereof.

Application for Special Permit, as provided for in Section 1.4.1.1(a) and 2.2.1, may be made at any time. Petitioners or applicants shall pay a fee of one hundred dollars (\$100) to the Board of Appeals to cover the expense of the hearing. This one hundred dollars (\$100) shall be by check made payable to the City of Gloucester.

(b) All appeals and applications made to the Board of Appeals shall be in writing on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of the Ordinance or statute involved if any, and in the case of appeals, shall set forth the grounds for the appeal. Where so indicated by "SPS" for certain Special Permits in Section 2.3, the application

shall be accompanied by three copies of a site plan showing the boundaries of the lot, use and zoning of adjacent parcels, existing and proposed topography, proposed structures, drives, parking, required landscaping and screening, park or recreation areas, water service, sanitary sewers and storm drainage, and by three copies of ground floor plans and architectural elevations of all proposed buildings at a scale of 1/8" equals one foot or larger, indicating major building materials and at least one section through the building and site.

(c) Owners of property. For the purpose of this section, the owners of property shall be considered to be the persons listed by the Board of Assessors as those against whom taxes are assessed. However, a non-resident property owner may annually request that notice of hearings under chapter 40A M.G.L., shall be sent by mail, postage prepaid, to the non-resident property owner; such request shall be made to the City Clerk before January first of each year together with a payment fee of \$10.00. Failure of any property owner to receive a notice of the public hearing shall not invalidate any action taken by the Board of Appeals and shall not require another hearing.

(d) The Board of Appeals shall take no action on any case until after proper notice has been given and a public hearing held. "Proper Notice" shall consist of a legal notice published by the Board once in each of two successive weeks in a newspaper of general circulation in the City of Gloucester, the first publication to be not less than fourteen (14) days before the day of the hearing. The Board shall also send notice by mail, postage prepaid, to the petitioner or applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the petitioner, and owners of other property deemed by the Board to be affected, and to the Planning Board. Special Permits shall only be issued following a Public Hearing held within sixty-five (65) days after filing of an application.

(e) The Board of Appeals may request the Planning Board, the Board of Health, the City Engineer, the Conservation Commission, or any other City agency or board to review an application. The Board of Appeals shall require that any response to such request be made within 35 days or at the public hearing, whatever is less. Such reviews may be made jointly by one or more agencies or boards.

(f) In the case of an appeal or variance, the decision of the Board shall be made within seventy-five (75) days after the date of filing. Failure to act within said period shall be deemed a grant of the appeal or variance requested.

(g) The Board of Appeals shall render a decision in writing on any application for a Special Permit within ninety (90) days after the close of the hearing. Failure to act within said ninety (90) day period shall be deemed to be a grant of the permit applied for. The Planning Board, City Building Inspector, and the applicant shall be sent a copy of the decision, with the original to be filed with the City Clerk. Special Permits shall be granted by the Board of Appeals only if such Board makes a determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the City, in view of the particular characteristics of the site and the proposal in relation to the site. The determination shall cite considerations of each of the following:

1. social, economic, or community needs served by the proposal;
2. traffic flow and safety;
3. adequacy of utilities and other public services;

4. neighborhood character and social structure;
5. qualities of the natural environment;
6. potential fiscal impact.

The permit may be granted with reasonable conditions, regulations or limitations such as the Board may deem necessary to protect the community and the City. Any condition, regulations, or limitations may be changed by the Board of Appeals from time to time in the interests of the community and of the City, but only after notice and hearing, and only for good reason.

(h) Failure to comply with any conditions, regulations, or limitations imposed by the Board of Appeals on any permit issued by it shall be deemed sufficient grounds for revoking the permit or operating and maintaining the activity permitted.

(i) Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this Ordinance unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the Permit or Special Permit. Said construction or operations must commence within six (6) months of issuance of said permit, unless otherwise stated in the conditions, regulations, or limitations imposed by the Board of Appeals. If construction is not begun within said period, or if construction is discontinued for a period of six (6) months or more, said permit will be considered void and no further construction shall be allowed without the issuance of a new Special Permit.

1.4.1.3 Appeal from the Board of Appeals

(a) Any person aggrieved by a decision of the Board of Appeals, whether or not previously a party to the proceedings, or any municipal officer or Board, may appeal to the Superior Court or land court for the county in which the land is situated, by bringing an action within twenty (20) days after the decision has been filed in the office of the City Clerk.

1.4.2 City Council

1.4.2.1 Special Permits from City Council

(a) In certain cases, as indicated in Section 2.3, Special Permits are to be acted upon by the City Council.

1.4.2.2 City Council Procedure for Special Permits

(a) Application for Special Permit may be made at any time. Petitioners or applicants shall pay a fee of two hundred dollars (\$200) for a City Council Permit (including "CC" and "CCS", but excluding Major Projects and Personal Wireless Service Facilities). The application fee for a Major Project and Personal Wireless Service Facilities shall be one percent (1%) of the construction costs, with a minimum fee of \$1,000 but not to exceed \$5,000. This payment shall be made to the City Clerk, payable to the City of Gloucester.

NOTE: When an applicant is required to obtain a variance or Special Council Permit from the Board of Appeals prior to seeking a City Council Permit (excluding Major Projects), the fee paid to obtain the variance or Special Permit shall be deducted from the fee required by the City Council.

(b) Applications shall be made in writing on forms prescribed by the City Council and issued through the Building Inspector's Office. The Building Inspector will advise the applicant of the necessary information and documentation required to submit a complete application to the City Clerk as required by City Council Rules for Special Permits. Every application shall refer to the specific provisions of the ordinance or statute involved, if any. On all applications for a Special Permit, the name and documentation of the recorded owner of the property shall be provided. The recorded owner(s) of the property will provide documentation of the ownership through deed, tax bill or other means. In addition, if the applicant is not the owner(s), the applicant will present authorization from the owner(s) to represent him/her in the Special Permit process. (Amended 10/9/01)

1. Where indicated "CC" use, which may be authorized/permitted under Special Permit in Section 2.3 of this ordinance, the application shall be accompanied by an accurate plot plan or site plan, drawn to scale, showing existing and/or proposed buildings, structures, and/or uses, and such additional information necessary to comply with the informational requirements of Section 1.4.2.2(e).

2. Where so indicated "CCS" use, which may be authorized/permitted under Special Permits in Section 2.3, the application shall be accompanied by three copies of a site plan, prepared by a registered and qualified engineer, showing the boundaries of the lot, the use and zoning of adjacent parcels, existing and proposed topography, proposed buildings, structures, and/or uses, drives, parking, required landscaping, and screening, park or recreation areas, open space, water service, sanitary sewer service and storm drainage; and by three copies of ground floor plans and architectural elevations of all proposed buildings and/or structures prepared and sealed by a registered architect or a registered and qualified professional engineer, drawn at a scale of 1/8" equals one foot or larger, indicating major building materials and at least one section through the building(s) and site.

3. Major Project applications shall be submitted in conformance with the requirements for a "CCS" application above and with the additional requirements of Section 5.7.2.

4. Personal Wireless Service Facilities applications shall be submitted in conformance with 5.13.5.

5. Prior to making application to the City Council for a Special Permit for a Protein Recovery Plant or equivalent thereof within the City limits, City of Gloucester, a full and complete environmental impact study shall be performed at the applicant's expense with review by the Board of Health and agent for the Conservation Commission with report submitted to the Planning and Development Committee and the City Council prior to Public Hearing. (Amended 9/1/98)

(c) Owners of Property. For the purpose of this section, the owners of property shall be considered to be the persons listed by the Board of Assessors as those against whom taxes are assessed. However, a non-resident property owner may annually request that notice of hearings under MGL Chapter 40A shall be sent by mail, postage prepaid, to the non-resident property owner. Such request shall be made to the City Clerk before January first of each year together with payment of a \$10.00 fee. Failure of any property owner to receive a notice of public hearing shall not invalidate any action taken by the City Council and shall not require another hearing.

(d) The City Council shall take no action on any application until after public notice has been given and a public hearing held. The Council shall fix a time for the hearing within sixty five (65) days after the filing of a complete application with the City Council; the date of filing shall be considered the date a complete application is received by the City Clerk's Office, and shall cause the notice of time and place of such hearing thereof and of the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the City of Gloucester once in each of two successive weeks, the first publication to be not less than fourteen days before the day of such hearing and also send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the Board to be affected; therefore, including the abutters and the owners of land next adjoining the land of the abutters, notwithstanding that the abutting land or the next adjoining land is located in another City or Town.

(e) The City Council shall render a decision in writing on any application for a Special Permit within ninety (90) days after the close of the hearing. The Planning Board, City Building Inspector, and the applicant shall be sent a copy of the decision, with the original to be filed with the City Clerk. Special Permits shall be granted by the City Council only if such (Council) makes determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the City, in view of the particular characteristics of the site and the proposal in relation to the site. The determination shall cite considerations of each of the following:

1. Social, economic, or community needs served by the proposal;
2. Traffic flow and safety;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structure;
5. Qualities of the natural environment;
6. Potential fiscal impact.

The permit may be granted with reasonable conditions, regulations, or limitations such as the Council may deem necessary to protect the community and the City. Any condition, regulations, or limitations may be changed by the City Council from time to time in the interests of the community and the City, but only after notice and hearing, and only for good reason.

(f) Failure to comply with any conditions, regulations or limitations imposed by the City Council on any permit issued by it shall be deemed sufficient grounds for revoking the permit after notice and hearing being given to the person holding the permit or operating and maintaining the activity permitted.

(g) Repetitive application to the Council shall be limited as provided in Section 16, Chapter 40A, General Laws.

- 1.4.3 Whenever a Special Permit or Variance is approved by the City Council, Planning Board, or Board of Appeals, the plans, sketches and written documents upon which the decision was made shall be permanently embossed and endorsed by the presiding officer of the Body after the vote.

1.5 AMENDMENTS TO THE ZONING ORDINANCE

1.5.1 Authorization

The Zoning Ordinance may be amended by vote of the City Council, following hearings and other procedures as prescribed by Section 5, Chapter 40A.

1.5.2 Initiation

Municipal action on proposed amendments may be initiated in any of the following ways:

- (a) By submission of a proposed amendment to the City Council by the Planning Board, Board of Appeals or the Regional Planning Agency;
- (b) By submission of a proposed amendment by an individual owning land to be affected by the proposed change;
- (c) By petition of ten registered voters, such petition to be certified by the City Clerk as provided by Section 38, Chapter 43, M.G.L.;
- (d) By other methods for in the Municipal Charter;
- (e) By motion of the Council on matters it deems appropriate, including, but not limited to, matters petitioned for other than as provided above. In determining whether or not to initiate, or continue, formal action, the Council may request an informal review of the matter and recommendation from the Planning Board, which informal review and recommendation, even if involving a hearing, shall not be construed as satisfying the Planning Board hearing requirements of Section 5, Chapter 40A, M.G.L. or invoking the limitations of Section 11, Chapter 40A, M.G.L.

1.5.3 Hearings and Notices

- (a) The City Council shall, within fourteen (14) days of receipt of a proposed amendment, submit it to the Planning Board for review.
- (b) The Planning Board and the City Council or a committee designated or appointed for the purpose by the City Council shall each hold a public hearing on the proposed amendment, together or separately. Such hearing(s) shall be held within sixty-five (65) days after the proposed amendment is submitted to the Planning Board by the City Council. Notice of the time and place of the public hearing shall be given as provided in Section 5, Chapter 40A. In addition, the Council shall give notice by mail to the owners of all land included in and abutting land to be affected by such amendments, as they appear in the most recent Assessor's list, which notice shall state the general nature of the proposed amendment as well as the text and shall quote in full Section 1.5.4 of the Zoning Ordinance pertaining to the vote required for amendment; except that this notice may be waived by vote of the City Council at the time of fixing time and place for the public hearing, upon Council's determination that the proposed amendment affects so many parcels as to make such notice impractical.

1.5.4 Council Vote

(a) No City Council vote to adopt a proposed amendment to the Zoning Ordinance shall be taken until a report with recommendations has been submitted by the Planning Board to the City Council, or twenty-one (21) days has elapsed after the Planning Board's hearing without submission of such a report.

(b) After notice has been given, a public hearing held and a report submitted by the Planning Board to the City Council, or after twenty-one (21) days has elapsed after such hearing without submission of such report, the City Council may adopt, reject, or amend and adopt any such proposed amendment.

(c) If the City Council fails to vote to adopt any proposed amendment within ninety (90) days of the close of its public hearing it shall not act thereon until after it holds a subsequent public hearing with notice as provided in section 1.5.3(b) above.

(d) No proposed amendment shall be adopted except by a two-thirds vote of all members of the City Council. However, no amendment shall be adopted except by a three-fourths vote of all the members of the City Council if a written protest is filed with the City Clerk prior to final action of the City Council which:

(1) states the reasons for the protest; and,

(2) is signed by the owners of twenty percent (20%) or more of the area of the land proposed to be included in such change of the area of the land immediately adjacent extending three hundred (300) feet therefrom.

1.5.5 Repetitive Petitions

No proposed Zoning Ordinance or Amendment which has been unfavorably acted upon by the City Council shall be considered by the City Council within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or amendment is recommended by the final report of the Planning Board.

1.5.6 Incorporation of Map Amendments

Whenever an amendment of the Zoning Ordinance duly adopted and recorded requires a revision of the Zoning Map, a notation shall be made on the appropriate page or pages of the drafting master giving the date of the amendment and the grid location of the change(s). This notation shall be signed by the City Clerk. Copies shall be filed as provided in Section 2.1.2.

1.5.7 Effective Date

The effective date of any amendment to the Zoning Ordinance shall be the date on which such amendment was voted upon by the City Council.

1.6 SEPARABILITY

(a) The invalidity of any section or provisions of this Ordinance shall not be held to invalidate any other section or provisions of this Ordinance.

(b) No claim of invalidity of any amendment or section of this Zoning Ordinance, arising out of any possible defect in the procedure of adoption or amendment, shall be made in any legal proceeding, and no State, Regional, County, or Municipal Officer shall refuse, deny, or revoke any permit, approval or certificate because of any such claim of invalidity, unless within one hundred and twenty (120) days after adoption of an Ordinance or Amendment, legal action is commenced and notice specifying the court, parties, invalidity claimed, and the date of filing is filed together with a copy of the petition, with the City Clerk within seven (7) days after the commencement of the actions.

1.7 ALL OTHER ORDINANCES REPEALED

This Ordinance shall take effect on the date of its final passage; thereupon all prior Zoning Ordinances or any parts thereof, and the April 12, 1962 Earth Removal Ordinance, are hereby repealed.

SECTION II USE REGULATIONS

2.1 DISTRICTS

2.1.1 In order to carry out the provisions of this Ordinance, the City of Gloucester is hereby divided into the following zoning districts:

R-1 Coastal Residential

To be established only where the district borders coastal or tidal waters; where absence of services and access or present development patterns suggest low-intensity development; and where existing development suggests exclusively residential use.

R-RA Rural Residential

R-RB Rural Residential

To be established where the absence of services and access suggests low-intensity use; and where present and anticipated future development can compatibly accommodate those select non-residential uses commonly found in residential areas.

R-2A Low Density Residential (Adopted 10/12/99)

R-2 Low/Medium Density Residential (Amended 10/12/99)

R-3 Medium/High Density Residential (Amended 10/12/99)

R-4 High Density Residential

S Service District

To be established only on arterial streets as defined herein; and only where either contiguous with an existing non-residential zone, or in part within 1000 feet of, or containing at the time of establishment, one or more non-residential buildings.

CCD Civic Center District

CB Central Business

The CB Central Business District is a district established to accommodate a composite of business and retail uses, residential uses, office uses, and institutional uses, all of which comprise the City's central core. (Amended 5/11/93, formerly B-1.)

NB Neighborhood Business

The NB Neighborhood Business District is a district established to accommodate a variety of retail business uses primarily offering convenience shopping for nearby residential areas. (Amended 5/11/93, formerly B-2.)

EB Extensive Business

The EB Extensive Business District is a district established to accommodate business, retail and service uses serving a city-wide clientele. The EB District is characterized by good highway accessibility and exposure afforded by location on collector streets. (Amended 5/11/93, formerly B-3.)

VB Village Business

The VB Village Business District is a district established to accommodate a composite of business and retail uses, residential uses, office uses, and institutional uses, to serve primarily the residents of the village in which it is located. (Adopted 5/11/93)

MI Marine Industrial

The MI Marine Industrial District is established only where the district borders coastal and tidal waters; and where the utilities and the access roads can support high-intensity industrial and commercial development that is primarily marine-related.

GI General Industrial

The GI General Industrial District is a district established primarily on arterial or collector streets as defined herein. It is intended primarily for manufacturing, assembling, processing, and other industrial uses, but it accommodates certain business establishments. It is to be located primarily in those areas that are not residential in nature. (Adopted 5/11/93 to combine Light Industrial (L-I) and Heavy Industrial (H-I) into one district.)

BP Business Park

The BP Business Park District is a district established to accommodate offices, warehousing, limited service uses, and compatible light industrial uses in a well-designed and attractive business park setting. The BP District should be located on lands with good highway accessibility and sufficient utility capacity to accommodate the demands of business park development. (Adopted 5/11/93)

- 2.1.2 The Districts listed above are shown on the "Zoning Map of the City of Gloucester" adopted by the City Council December 6, 1973, and dated July 24, 1975. Permanent tracings of the original and of each subsequent amended map shall be filed in the City Clerk's Office and shall be signed by the City Clerk; these shall be the official copies.

An updated copy of the Zoning Map shall also be filed with the Planning Board. The drafting masters of these maps shall be filed in the City Engineer's Office. Said map and all explanatory matter thereon are hereby incorporated in and made part of this Ordinance.

Each page of the zoning map book shall be identified by an index map showing the districts and each page of the book shall include a distinctive number in the lower right hand corner of the page. In addition, a grid system shall be included for each page and shall consist of horizontal numbered divisions, (1) through (6), and vertical lettered divisions, (A) through (D).

2.1.3 Where uncertainty may exist with regard to the boundaries at the various zoning districts, the following rules shall apply:

(a) Unless otherwise indicated, district boundaries are the center lines of streets, ways, alleys, parkways, waterways, or rights of way of public utilities and railroads, or perpendicular or radial thereto.

(b) Other district boundary lines not listed in the preceding section shall be considered as lines paralleling a street and at distances from the side lines of such street which are stated on the Zoning Map.

(c) Other district lines not listed above shall be considered as lot lines.

(d) Lot in more than one district: when the boundary lines of a zoning district divide a lot having frontage on a street in a less restricted district, the provisions of this Ordinance covering the less restricted portion of the lot may extend not more than twenty-five (25) feet from the district boundary. Where the boundary line of a district divides a lot having frontage only on a street in a more restricted district, the provisions of this Ordinance covering the more restricted portion of the lot shall extend to the entire lot.

2.2 USE REGULATIONS

2.2.1 No building or structure shall be erected or used and no premises shall be used except as set forth in the "Use Regulations Schedule," or as exempted by Section 2.4 or by statute. Symbols employed shall mean the following:

Yes- A permitted use

No - An excluded or prohibited use

SP - Use which may be authorized under Special Permit by the Board of Appeals as provided for in Section 1.4.1 herein.

SPS - Use which may be authorized under Special Permit by the Board of Appeals. Application must be accompanied by plans as required in Section 1.4.1.2(b), second paragraph.

CC - Use which may be authorized under Special Permit by the City Council as provided for Section 1.4.2 herein.

CCS - Use which may be authorized under Special Permit by the City Council. Application must be accompanied by plans as required in Section 1.4.2.2(b), second paragraph. Applications for Major Projects must be submitted in accordance with Section 5.7.2.

2.2.2 Where an activity might be classified under more than one of the following uses the more specific classification shall determine permissibility; if equally specific the more restrictive shall govern.

- 2.2.3 Where a structure or premises is proposed to be used for more than one principal use, all of which are permitted in the district in question and none of which is accessory to another, such mixed or multiple uses shall be permitted unless some regulation applying to one of such uses is inconsistent with regulations applying to another; in such a case the more restrictive regulation shall apply. An applicant aggrieved by the Building Inspector's interpretation of this paragraph may appeal to the Board of Appeals for determination.
- 2.2.4 For all uses requiring a special permit in the MI zone, and located within two hundred (200) feet of the water's edge, in addition to the requirements for the issuance of special permits contained in Sections 1.4.1.2, 1.4.2.2, and 5.7 herein, the special permit granting authority shall consider the following factors:
- (1) Will the proposed use displace existing water-related uses;
 - (2) Will the proposed use pre-empt the use of the surrounding property for future development of water-related uses;
 - (3) Will the proposed use be compatible with the working waterfront character of the zone;
 - (4) To the extent that the proposed project will displace existing commercial fishing vessel berthing in Gloucester Harbor, will the applicant provide equivalent space at a suitable alternative site;
 - (5) The extent to which the proposed use will beneficially affect the preservation of water-related uses on surrounding properties.

In exercising its power under this section, the special permit-granting authority may impose reasonable conditions, regulations or limitations as are necessary or appropriate to ensure that the presence of the proposed development does not adversely affect the primary character of the area as a working waterfront.